



AMENDMENT AFTER FINAL REJECTION
EXPEDITED PROCEDURE EXAMINING GROUP 1764
MAIL STOP AF

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Fumio ABE et al.

Group Art Unit: 1764

Serial No.: 08/857,585

Examiner: Nadine Georgianna Norton

Filed: May 16, 1997

For: HEATER AND CATALYTIC CONVERTER

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request reconsideration of the rejections in the Office Action mailed July 22, 2003 in view of the following remarks.

The rejection of claims 3, 5, 6, 12, 14 to 16, and 18 under 35 USC 103 as unpatentable over the translation of Hei '247 in view of Eberly, Jr. et al. '488 and Swaroop et al. '694 is respectfully traversed.

The Examiner asserts that all of the elements of the claims, but for an indication of the BET value of zeolite, is shown in the first two references and that Swaroop et al. '694 shows that zeolites having BET values of the instant claims are known for use in exhaust gas treatment. The Examiner states that it would have been obvious to use such features in the context of the present invention. Applicants respectfully disagree.

The independent claim (3) calls for an adsorbent structure including a high silica zeolite that not only has a BET specific surface after a heat treatment of 1100°C of at least 30 m² per gram but an Si/Al atomic ratio of not less than 40 and an alkali metal content of 0.1% by weight or less. Applicants filed with the Amendment Under 37 CFR 1.111 on April 2, 2003 a Declaration Under 37 CFR 1.132 of co-inventor Naomi Noda, whose credentials in this art are recited in that paper, in support of the patentability of the claims.

The Table on page 3 of the Declaration shows the need to control both the Si/Al molar ratio and the alkali content to be assured that one has a necessary BET minimum value at a high

temperature such as 1100°C. There is no such recognition or motivation to maintain such controls in the cited art.

Applicants point out that Swaroop et al. '694 relates to a zeolite having a minimum chromium content, which demands that the Si/Al ratio be less than the minimum value of the present claims, because for chromium to be exchanged with the cations bonding to aluminum present in the zeolite coordination lattice, one cannot have a zeolite with a high exchanged chromium content if the amount of aluminum present in the coordination lattice is too low. The Examiner is directed to the discussion in Swaroop et al '694 at column 3, lines 28 to 37 and 47 to 61. In contrast, applicants can use higher Si/Al ratios because the alkali metal content is controlled. There is no such teaching or awareness in the references either singly or collectively.

The Examiner had criticized the sworn showing asserting that the points in the Declaration did not illustrate unexpected results for the specific "endpoints" of the claimed ranges. Applicants respectfully submit that the values appearing in the Table in the Declaration Under 37 CFR 1.132 establish clearly that the values indicated in the claims are necessary successfully to achieve

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applicants' desired invention. The values are important ones in the context of applicants' invention. The rejection should be withdrawn.

The rejection of claims 3, 5, 6, 12, 14 to 16, and 18 under 35 USC 103 as unpatentable over the translation of Hei '247 in view of Inoue et al. '236 and Swaroop et al. '694 is also respectfully traversed. Inoue et al. '236 is used in this rejection in the same manner as Eberly, Jr. et al. '448 was used in the prior rejection. The issues are believed the same and applicants' arguments presented above apply with equal force here. The rejection should be withdrawn also.

The rejection of claims 3, 5, 6, 12, and 14 under the judicially created doctrine of obviousness type double patenting as allegedly unpatentable over claims 1 and 2 of commonly owned U.S. Patent No. 5,164,350 in view of Swaroop et al. '694 is noted. While applicants do not agree with the Examiner's analysis, enclosed herewith is a Terminal Disclaimer that overcomes the rejection.

In view of the foregoing arguments and submissions, it is believed that the case is in condition for allowance. The Examiner

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is requested to telephone the undersigned should anything further be required in the case. If the only barrier to allowance is the presence of non-elected claim 19, the Examiner is authorized to cancel the claim for that express purpose.

Respectfully submitted,

PARKHURST & WENDEL, L.L.P.

Wendel 24, 2007

Date

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Enclosure:

Terminal Disclaimer

Attorney Docket No.: WATK:040E

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